

REMARKS

I. Introduction

With the addition of claim 28 to 30, claims 11 to 30 are pending in the present application. In view of the foregoing amendments and following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all of copies of the certified copies of the priority documents have been received.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO Form-1449 and cited references.

II. Rejection of Claims 11 to 27 Under 35 U.S.C. § 103(a)

Claims 11 to 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of U.S. Patent No. 4,840,829 ("Suzuki et al.") and U.S. Patent No. 5,783,503 ("Gillespie et al."). Applicants respectfully submit that claims 11 to 27 are allowable for the following reasons.

Claim 11 relates to a perforated nonwoven fabric. Claim 11 recites that the perforated nonwoven fabric includes interlaced continuous microfiber filaments having a titer in a range of 0.05 to 0.40 dtex, the microfiber filaments being composed of at least two thermoplastic polymers having different hydrophobicity and having one of a pie filament cross-section and a hollow pie filament cross-section, from which split filaments have been released, perforations being clearly formed and being free of split-fiber filaments. Claim 11 further recites that the perforated nonwoven fabric has a mass per unit area of 8 to 17 g/m². Claim 11 has been amended to recite that the perforated nonwoven fabric is impregnated with 0 to 0.60% by weight in relation to a nonwoven weight of at least one surface-active agent. Support for this amendment can be found, for example, in original claim 6.

Claim 18 relates to a method for producing a perforated nonwoven fabric. Claim 18 recites laying up one of splittable pie and splittable hollow pie continuous fibers, a cross-section of which having at least two different thermoplastic polymers having different hydrophobicity in an alternating cake-piece arrangement to form a nonwoven fabric. Claim 18 further recites after the laying up step, splitting and entangling the split filaments by high-pressure water jets to form interlaced microfiber filaments. Claim 18 further recites after the splitting and entangling step, perforating the nonwoven fabric using high-pressure water jets. Claim 18 has been amended to recite impregnating the perforated nonwoven fabric with 0 to 0.60% by weight in relation to a nonwoven weight of at least one surface-active agent. Support for this amendment can be found, for example, in original claim 6.

Claim 20 relates to a hygiene product. Claim 20 recites that the hygiene product includes a topsheet having a perforated nonwoven fabric including interlaced

continuous microfiber filaments having a titer in a range of 0.05 to 0.40 dtex, the microfiber filaments being composed of at least two thermoplastic polymers having different hydrophobicity and having one of a pie filament cross-section and a hollow pie filament cross-section, from which split filaments have been released, perforations being clearly formed and being free of split-fiber filaments. Claim 20 further recites that the perforated nonwoven fabric has a mass per unit area of 8 to 17 g/m². Claim 20 has been amended to recite that the perforated nonwoven fabric is impregnated with 0 to 0.60% by weight in relation to a nonwoven weight of at least one surface-active agent. Support for this amendment can be found, for example, in original claim 6.

Suzuki et al. purportedly relate to a nonwoven fabric patterned with apertures. Gillespie et al. purportedly relate to meltspun multicomponent thermoplastic continuous filaments, products made therefrom, and methods therefore. Hills purportedly relates to a method of making plural component fibers.

Applicants respectfully submit that the combination of Suzuki et al., Gillespie et al. and Hills does not disclose, or even suggest, a perforated nonwoven fabric impregnated with 0 to 0.60% by weight in relation to a nonwoven weight of at least one surface-active agent, as recited in amended claims 11 and 20, nor the step of impregnating the perforated nonwoven fabric with 0 to 0.60% by weight in relation to a nonwoven weight of at least one surface-active agent, as recited in amended claim 18. Therefore, the combination of Suzuki et al., Gillespie et al. and Hills does not disclose all of the limitations of amended claims 11, 18 and 20.

In this regard the Specification at p. 9, lines 1 to 19, states as follows:

Ingredients that change the interfacial tension on the microfiber surface may also be subsequently applied after the generation, i.e., release of the microfiber filaments in the already perforated nonwoven. Such substances are, for example, wetting agents in dispersed form or dissolved in water, with which many diaper-cover spunbonded materials are finished for the purpose of better urine management.

However, the nonwoven fabrics of the present invention may not require such wetting agents or may include only a fraction of the conventional application quantity. The development of the perforations, i.e., their hole size, their shape, the arrangement of the individual perforations relative to each other (e.g., staggered or in rows) and the open area, as well as the extremely high suppleness of the segments (area between the perforations) composed of interlaced continuous microfiber filaments and their very low weight allow this reduction in wetting agent up to the point of dispensing with it completely.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532,

28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As stated above, the combination of Suzuki et al., Gillespie et al. and Hills fails to disclose, or even suggest, each and every feature of claims 11, 18 and 20. It is therefore respectfully submitted that the combination of Suzuki et al., Gillespie et al. and Hills does not render obvious claims 11, 18 and 20.

Claims 12 to 15 and 17 depend from claim 11 and therefore include all of the limitations of claim 11. Claim 19 depends from claim 18 and therefore includes all of the limitations of claim 18. Claims 21 to 25 and 27 depend from claim 20 and therefore include all of the limitations of claim 20. Therefore, it is respectfully submitted that these dependent claims are patentable over the combination of Suzuki et al., Gillespie et al. and Hills for at least the same reasons provided above in support of the patentability of claims 11, 18 and 20, respectively. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988) (any dependent claim that depends from a non-obvious independent claim is non-obvious).

III. New Claims 28 to 30

New claims 28 to 30 have been added herein. It is respectfully submitted that claims 28 to 30 add no new matter and are fully supported by the present application, including the Specification. Applicants respectfully submit that new claims 28 to 30 are patentable over the references relied upon for at least the same reasons submitted above in support of the patentability of claims 11, 18 and 20, respectively.

IV. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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